

AMENDED IN ASSEMBLY FEBRUARY 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 48

Introduced by Assembly Member Mark Stone
*(Coauthors: Assembly Members Bloom, Gonzalez, Levine, Rendon,
and Williams)*
(Coauthor: Senator Allen)

December 1, 2014

An act to add Division 8.55 (commencing with Section 22964) to the Business and Professions Code, relating to cigarettes.

LEGISLATIVE COUNSEL'S DIGEST

AB 48, as amended, Mark Stone. Cigarettes: single-use filters.

Existing law, the Stop Tobacco Access to Kids Enforcement Act, requires all persons engaging in the retail sale of tobacco products to check the identification of tobacco purchasers, to establish the age of the purchaser, if the purchaser reasonably appears to be under 18 years of age. Under existing law, an enforcing agency, as defined, may assess civil penalties against any person, firm, or corporation that sells, gives, or in any way furnishes to another person who is under 18 years of age, any tobacco, cigarette, cigarette papers, any other instrument or paraphernalia that is designed for the smoking or ingestion of tobacco, or products prepared from tobacco. The existing civil penalties range from \$400 to \$600 for a first violation, up to \$5,000 to \$6,000 for a 5th violation within a 5-year period.

Existing law prohibits the sale, distribution, or nonsale distribution of tobacco products directly or indirectly to any person under 18 years of age through the United States Postal Service or through any other public or private postal or package delivery service at locations,

including, but not limited to, public mailboxes and mailbox stores. Under existing law, a district attorney, city attorney, or the Attorney General may assess civil penalties against a violator of that provision of not less than \$1,000 or more than \$2,000 for the first violation and up to \$10,000 for a 5th violation within a 5-year period.

Under existing law, every person, firm, or corporation that knowingly or under circumstances in which it has knowledge, or should otherwise have grounds for knowledge, sells, gives, or in any way furnishes to another person who is under 18 years of age any cigarette, among other specified items, is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of \$200 for the first offense, \$500 for the 2nd offense, and \$1,000 for the 3rd offense.

This bill would state findings and declarations of the Legislature regarding the health and safety hazards to residents of the state related to cigarettes utilizing single-use filters. The bill would prohibit a person or entity from selling, giving, or in any way furnishing to another person of any age in this state a cigarette utilizing a single-use filter made of any material, including cellulose acetate, or other fibrous plastic material, and any organic or biodegradable material. The bill would prohibit that selling, giving, or furnishing, whether conducted directly or indirectly through an in-person transaction or by means of any public or private method of shipment or delivery to an address in this state.

This bill would authorize a city attorney, county counsel, or district attorney to assess a \$500 civil fine against each person determined to have violated those prohibitions in a proceeding conducted pursuant to the procedures of the enforcing agency, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Division 8.55 (commencing with Section 22964)
- 2 is added to the Business and Professions Code, immediately
- 3 following Section 22963, to read:

DIVISION 8.55. PROHIBITION ON CIGARETTES
UTILIZING SINGLE-USE FILTERS

22964. (a) Studies published in the peer-reviewed journal Tobacco Control estimate the percentage of smokers who litter to range from 75 ~~percent~~ to 92 percent, for smokers between 21 and 25 years of age. It is estimated that 845,500 tons of cigarette butts become litter around the globe each year.

(b) Cigarette butts have consistently been the single most-recovered item since collections began among volunteer groups, including the Ocean Conservancy and its International Coastal Cleanup event, which cleans litter in waterways, beaches, and parks in this state.

(c) Although the citation rate for littering cigarette waste is annually about five times that of general litter from vehicles, as reported in the Department of Motor Vehicles' citation statistics, cigarette butts remain at the top of the list for litter on our highways.

(d) The Department of Transportation has estimated the costs to clean up cigarette butts at forty-one million dollars (\$41,000,000) annually.

(e) The City and County of San Francisco has estimated costs for city abatement of cigarette butts at over six million dollars (\$6,000,000) annually.

(f) From 2006 to 2008, the American Association of Poison Control Centers reported approximately 12,600 cases of children ingesting cigarettes or cigarette butts. Children under six years of age are especially prone to cigarette butt ingestion.

(g) The well-documented and common occurrence of cigarette butt ingestion by domestic animals points to the larger impact that improperly discarded cigarette butts have on our environment and wildlife.

(h) As early as the mid-1960s, the Surgeon General of the United States judged cigarette filters to be useless in reducing harm to the average smoker.

(i) Banning the sale, gift, or other furnishing of cigarettes utilizing single-use filters is necessary to keep toxic litter out of our state's environment and promote the health and safety of our state's residents.

1 (j) In its cigarette and tobacco products tax evasion report for
2 2012–13, the State Board of Equalization noted that 90.6 percent
3 of cigarette contraband and excise tax evasion was driven by
4 retailer evasion and 9.4 percent by individual consumer evasion.
5 Strong safeguards, including retail inspections, have proven
6 effective in preventing further black market evasion.

7 22965. (a) No person or entity shall sell, give, or in any way
8 furnish to another person, of any age, in this state, a cigarette
9 utilizing a single-use filter made of any material including, but not
10 limited to, cellulose acetate, or other fibrous plastic material, or
11 any organic or biodegradable material. The prohibition under this
12 subdivision applies to any direct or indirect transaction, whether
13 made in-person in this state or by means of any public or private
14 method of shipment or delivery to an address in this state.

15 (b) The sale, gift, or other furnishing of one to 20 cigarettes
16 constitutes a single violation of this section.

17 22966. (a) (1) A city attorney, county counsel, or district
18 attorney may assess a civil fine of five hundred dollars (\$500) for
19 each violation of Section 22965. Only a city attorney, county
20 counsel, or district attorney may assess the civil fine against each
21 person determined to be in violation of Section 22965.

22 (2) Proceedings under this section shall be conducted pursuant
23 to the procedures of the enforcing agency that are consistent with
24 Section 131071 of the Health and Safety Code and in accordance
25 with Article 6 (commencing with Section 11425.10) of Chapter
26 4.5 of Part 1 of Division 3 of Title 2 of the Government Code.

27 (b) Fine moneys assessed pursuant to this section shall be
28 deposited in the treasury of the city or county, respectively, of the
29 city attorney, county counsel, or district attorney who assessed the
30 fine.

31 22967. A city attorney, county counsel, or district attorney
32 acting as an enforcement agency, as defined in subdivision (b) of
33 Section 22950.5, is encouraged, but not required, to develop
34 guidelines for its agency to conduct tobacco control investigations
35 of violations of subdivision (a) of Section 22965 concurrent with
36 investigations of violations of Section 308 of the Penal Code or
37 Division 8.5 (commencing with Section 22950), conducted in
38 accordance with Section 22952, or concurrent with investigations

- 1 of violations of any tobacco control provisions created by local
- 2 ordinance in its jurisdiction.

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